IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR.JUSTICE ELIPE DHARMA RAO

***

WRIT PETITION NO : 1965 of 1999

Between:

Gostu Pushpavathi, w/o. G.Venkateswarlu, aged 42 years,

0cc.housewife, r/o. Palakol, West Godavari district.

..... PETITIONER

A N D

Palakol Municipality, Palakol, West Godavari district,

Represented by its Commissioner.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction particularly one in the nature of MANDAMUS to declare the action of the respondent in issuing notice dated 21-1-1999 causing removal of deviations in Door No.LP.No.9/71, Plot No.16, Palakol Municipality, Palakol, West Godavari district without disposing of the representation dated 18-1-1999 as illegal, arbitrary and violative of the principles of natural justice and Article 14, 21 and 300-A of the Constitution of India and pass such other relief or reliefs, as this Hon'ble Court may deem fit just and necessary in the circumstances of the case and pass such other relief or reliefs as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.PRABHAKAR

Counsel for the Respondents: MR.S.NAGESWARA REDDY,

The Court made the following: (Order follows 2nd page)

O R D E R

This writ petition is filed against final notice issued by the respondent confirming the deviations made by the petitioner for making construction of the building contrary to the sanctioned plan.

The main grievance of the petitioner is that before issuance of final order dated 21-1-1999, she submitted her representation on 18-1-1999. After passing final order by the respondent, she submitted her representation on 18-1-1999 but her contention is that the respondent without considering her representation passed final order on 21-1-1999 and served on her on 25-1-1999. Moreover for the deviations committed by the petitioner, a notice under section 217 (1) and (2) of the AP Municipalities Act, 1965 in UCBA.No.119/98 dated 10-9-1998 was issued to the petitioner. As the petitioner did not comply with notice, the provisional order was confirmed under section 228 (3) of the Act on 13-10-1998 and communicated to the petitioner. Even after receipt of confirmation order she did not comply with it. Consequently, criminal case was filed under section 340 (c) of the Act, wherein the petitioner was convicted and penalty of Rs.500/- was imposed in STC.No.200 of 1998 on the file of the Court of Special Judicial Second Class Magistrate, Palakol. Further the petitioner neither removed deviated portion nor submitted revised plans, therefore, a final notice dated

21-1-1999 under section 359, 360 and 361 of the AP Municipalities Act was issued. After receipt of final notice, she filed the present writ petition.

According to the learned standing counsel for the respondent, the petitioner submitted her representation on 12-2-1999 but not on 18-1-1999. Whereas the respondent issued final notice on 21-1-1999. Therefore, the question of passing orders on her representation does not arise. The action taken by the respondent is in accordance with rules and it is legal and valid. Further the suit filed by her in OS.No.333 of 1998 on the file of the Court of Principal Junior Civil Judge, Palakole was dismissed, as the petitioner herself not pressed the suit.

In view of the above, it cannot be said that the respondent issued final notice without considering the representation submitted by the petitioner.

On analysis of the above, the petitioner has no locus standi and the writ petition is liable to be dismissed on the ground that the respondent issued final notice after considering her representation. Therefore, the relief sought in this writ petition is misconceived.

The writ petition fails and is accordingly dismissed. No costs.

JULY 20th, 2005. ----------

ISL. ELIPE DHARMA RAO , J.

To

1. The Commissioner, Palakol Municipality, Palakol, West Godavari district.
2. Two CCs. to Mr.S.Nageswara Reddy, Standing Counsel for the respondent.
3. Two CD copies.